

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KYLE DAVIE GRAHAM,

Defendant.

CASE NO. CR04-5172FDB

ORDER FOR SENTENCING
PROCEDURE

THIS MATTER comes before the Court on Defendant's conviction, and the Court having set on **November 5, 2004** at **9:00 a.m.** for sentencing, it is hereby

ORDERED

A presentence report is to be prepared by the U.S. Probation Department.

No later than **August 26, 2004**, Defense counsel is to make their client available to the Probation Officer for an interview. By **October 1, 2004**, the Probation Officer shall furnish the presentence report to the defendant, the defendant's counsel and the attorney for the government. By **October 15, 2004**, the parties shall communicate in writing to the Probation Officer, and to each other, any objections to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the presentence report. After receiving objections, the Probation Officer may require the defendant, the defendant's counsel and the attorney for the government to meet with

1 the Probation Officer to discuss unresolved factual and legal issues. The Probation Officer
2 may also conduct a further investigation and revise the presentence report as appropriate.

3 Not later than **October 29, 2004**, the Probation Officer shall submit the presentence
4 report, as revised, together with any addendum, setting forth any unresolved objections, the
5 grounds for those objections, and the Probation Officer's comments on the objections and
6 the sentencing recommendations to the Court, the defendant, the defendant's counsel and
7 the attorney for the Government.

8 By **November 1, 2004**, Counsel shall inform the Probation Officer and the Courtroom
9 Deputy, Rhonda Miller at 593-6360, whether or not an evidentiary hearing will be
10 necessary at the sentencing and, if so, whether witnesses will be called, who they will be,
11 and an estimated length of the hearing.

12 If the Government intends to file a §5K1.1 motion for substantial assistance, the
13 motion must be served on all counsel and filed under seal no later than **October 22, 2004**.
14 In such event, the Government must also serve and file under seal a written statement of
15 the nature and extent of the defendant's cooperation. Any motion under §5K1.1 and the
16 supporting written statement must also be provided to the Probation Officer who has
17 prepared the presentence report. If the Government files a §5K1.1 motion requesting that
18 the Court depart from the Guidelines, the defendant may file, in response, his or her version
19 of the defendant's cooperation. Any such response by the defendant must be filed not later
20 than **November 1, 2004**, and may be included in the defendant's sentencing memorandum.

21 In the event the defendant wishes to provide a written statement accepting
22 responsibility, the statement should be signed by the defendant. The original should be
23 provided to the U S Probation Office with a copy to the United States Attorney by
24 **October 22, 2004**. Counsel for the United States and for defendant shall file and serve
25 copies of any sentencing memorandum or related documents upon all other parties and
26 upon the United States Probation Officer by **November 1, 2004**.

27 The Clerk of the Court shall send uncertified copies of this Order to all counsel of
28 record and to the U.S. Probation Office.

1 DATED this 19th day of August, 2004.

2
3 /s/ Franklin D Burgess
4 FRANKLIN D. BURGESS
5 United States District Judge
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28